

REMARKS

The Examiner has required election of one species from each of the following groups of species, under 35 U.S.C. §121:

- (a) either the peptide D-Pro D-Tyr D-Val or the peptide D-Leu D-Thr D-Val,
- (b) either a food composition or a pharmaceutical composition,
- (c) in the event that a pharmaceutical composition is elected from (b), either a tablet, powder, granule, pill, or injectable pharmaceutical composition,
- (d) in the event that a injectable pharmaceutical composition is elected from (c), either a an injectable solution, and injectable suspension, or an injectable emulsion.

Applicants hereby elect from (a) the peptide D-Pro D-Tyr D-Val, from (b) a pharmaceutical composition, from (c) an injectable composition, and from (d) an injectable solution. This election is made *with traverse*. Applicants respectfully request that the requirement be reconsidered and withdrawn.

M.P.E.P. § 808.01(a), states that “where there is no disclosure of relationship between species (see M.P.E.P. §806.04 (b)), they are independent inventions and election of one invention” is required. In view of M.P.E.P. §803, however, when the generic claim includes sufficiently few species that a search and examination of all the species at one time would not impose a serious burden on the examiner, then a requirement for election is inappropriate.

It is respectfully submitted that there is a disclosed relationship between the species of peptides in part (a). The two claimed peptides are both tripeptides, both contain the amino acid D-Val, and both have triglyceride-lowering activity. Furthermore, there only being two species of peptides claimed, the number of species is sufficiently few in number that search and examination of both peptides can be easily performed without placing an undue burden on the Examiner.

Similarly, it is respectfully submitted that there is a disclosed relationship between the species listed in parts (b), (c), and (d) because all of these species relate to compositions containing tripeptides having triglyceride-lowering activity. Additionally, the number of species listed is sufficiently few that search and examination of all species can be easily performed

without undue burden, especially because the search and examination of each species will likely be co-extensive and, in any event, will involve such interrelated art that search and examination of the all of the species can be made without undue burden.

All of the above mitigate against the requirement for an election species. Accordingly, reconsideration and withdrawal of the requirement for election of species, and issuance of an action on the merits, is respectfully requested.

Respectfully submitted,
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